

HOUSE BILL 556

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2004 Regular Session  
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By: ~~Delegates Morhaim and Boutin~~, Boutin, Hurson, Hammen, Rudolph,  
Oaks, Murray, Benson, Mandel, Goldwater, Nathan-Pulliam, Hubbard,  
Rosenberg, Pendergrass, and V. Turner

Introduced and read first time: February 3, 2004  
Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 2, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Medical Records - Physician Orders for Life-Sustaining Treatment**

3 FOR the purpose of requiring the Office of the Attorney General to develop a  
4 "Physician Orders for Life-Sustaining Treatment" form that documents certain  
5 treatment preferences of an individual; requiring the form to be consistent with  
6 certain health care decisions of certain individuals; providing that the form may  
7 be completed by a health care provider under certain supervision; requiring the  
8 form to be signed by a certain health care provider and to contain a certain  
9 statement; requiring a health care provider to comply with the form; requiring  
10 the Department of Health and Mental Hygiene to ~~print and~~ distribute the form;  
11 requiring the Department, in consultation with the Office of the Attorney  
12 General and certain other groups, to adopt certain regulations; requiring the  
13 Office of the Attorney General, in consultation with certain groups, to make a  
14 certain report to certain committees of the General Assembly on or before a  
15 certain date; and generally relating to the "Physician Orders for Life-Sustaining  
16 Treatment" form.

17 BY repealing and reenacting, without amendments,  
18 Article - Health - General  
19 Section 4-301(a) and (g), 5-608(a), and 5-609  
20 Annotated Code of Maryland  
21 (2000 Replacement Volume and 2003 Supplement)

22 BY adding to  
23 Article - Health - General

1 Section 5-608.1  
2 Annotated Code of Maryland  
3 (2000 Replacement Volume and 2003 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - Health - General**

7 4-301.

8 (a) In this subtitle the following words have the meanings indicated.

9 (g) (1) "Medical record" means any oral, written, or other transmission in  
10 any form or medium of information that:

11 (i) Is entered in the record of a patient or recipient;

12 (ii) Identifies or can readily be associated with the identity of a  
13 patient or recipient; and

14 (iii) Relates to the health care of the patient or recipient.

15 (2) "Medical record" includes any:

16 (i) Documentation of disclosures of a medical record to any person  
17 who is not an employee, agent, or consultant of the health care provider;

18 (ii) File or record maintained under § 12-403(b)(13) of the Health  
19 Occupations Article by a pharmacy of a prescription order for drugs, medicines, or  
20 devices that identifies or may be readily associated with the identity of a patient;

21 (iii) Documentation of an examination of a patient regardless of  
22 who:

23 1. Requested the examination; or

24 2. Is making payment for the examination; and

25 (iv) File or record received from another health care provider that:

26 1. Relates to the health care of a patient or recipient received  
27 from that health care provider; and

28 2. Identifies or can readily be associated with the identity of  
29 the patient or recipient.

1 5-608.

2 (a) (1) Certified or licensed emergency medical services personnel shall be  
3 directed by protocol to follow emergency medical services "do not resuscitate orders"  
4 pertaining to adult patients in the outpatient setting in accordance with protocols  
5 established by the Maryland Institute for Emergency Medical Services Systems in  
6 conjunction with the State Board of Physicians.

7 (2) Emergency medical services "do not resuscitate orders" may not  
8 authorize the withholding of medical interventions, or therapies deemed necessary to  
9 provide comfort care or to alleviate pain.

10 (3) A health care provider, other than certified or licensed emergency  
11 medical services personnel, may provide, withhold, or withdraw treatment in  
12 accordance with an emergency medical services "do not resuscitate order" described in  
13 paragraph (1) of this subsection if a health care provider sees either the order or a  
14 valid, legible, and patient identifying emergency medical services "do not resuscitate  
15 order" in bracelet form.

16 5-608.1.

17 (A) THE OFFICE OF THE ATTORNEY GENERAL SHALL DEVELOP A "PHYSICIAN  
18 ORDERS FOR LIFE-SUSTAINING TREATMENT" FORM TO DOCUMENT THE TREATMENT  
19 PREFERENCES OF AN INDIVIDUAL RELATED TO:

20 (1) THE USE OF LIFE-SUSTAINING PROCEDURES;

21 (2) TRANSFER TO A HOSPITAL; AND

22 (3) ANY OTHER MATTER CONSIDERED APPROPRIATE BY THE OFFICE OF  
23 THE ATTORNEY GENERAL TO ACCOMPLISH THE PURPOSES OF THE "PHYSICIAN  
24 ORDERS FOR LIFE-SUSTAINING TREATMENT" FORM.

25 (B) THE "PHYSICIAN ORDERS FOR LIFE-SUSTAINING TREATMENT" FORM  
26 SHALL BE CONSISTENT WITH:

27 (1) THE DECISIONS OF A COMPETENT INDIVIDUAL;

28 (2) ANY ADVANCE DIRECTIVE OF AN INDIVIDUAL INCAPABLE OF  
29 MAKING AN INFORMED DECISION; AND

30 (3) THE DECISIONS OF A HEALTH CARE AGENT OR SURROGATE  
31 DECISION MAKER AS AUTHORIZED BY THIS SUBTITLE.

32 (C) THE "PHYSICIAN ORDERS FOR LIFE-SUSTAINING TREATMENT" FORM:

33 (1) MAY BE COMPLETED BY A HEALTH CARE PROVIDER UNDER THE  
34 DIRECTION OF AN ATTENDING PHYSICIAN;

35 (2) SHALL BE SIGNED BY THE ATTENDING PHYSICIAN; ~~AND~~

1 (3) SHALL CONTAIN A CONSPICUOUS STATEMENT THAT THE ORIGINAL  
2 FORM SHALL ACCOMPANY THE INDIVIDUAL WHEN THE INDIVIDUAL IS  
3 TRANSFERRED TO ANOTHER HEALTH CARE PROVIDER OR DISCHARGED; AND

4 (4) SHALL INCLUDE A STATEMENT THAT THE FORM CAN BE REVIEWED,  
5 MODIFIED, OR RESCINDED AT ANY TIME.

6 (D) (1) A HEALTH CARE PROVIDER SHALL, IN ACCORDANCE WITH THE  
7 "PHYSICIAN ORDERS FOR LIFE-SUSTAINING TREATMENT" FORM:

8 (I) PROVIDE, WITHHOLD, OR WITHDRAW LIFE-SUSTAINING  
9 PROCEDURES;

10 (II) ARRANGE FOR OR REFRAIN FROM ARRANGING FOR A  
11 TRANSFER OF AN INDIVIDUAL TO A HOSPITAL; AND

12 (III) COMPLY WITH OTHER MEDICAL ORDERS ON THE FORM.

13 (2) A "PHYSICIAN ORDERS FOR LIFE-SUSTAINING TREATMENT" FORM  
14 THAT CONTAINS AN ORDER THAT RESUSCITATION NOT BE ATTEMPTED SHALL BE  
15 GIVEN THE SAME EFFECT AS AN EMERGENCY MEDICAL SERVICES "DO NOT  
16 RESUSCITATE ORDER" AS SET FORTH IN § 5-608(A) OF THIS SUBTITLE.

17 (3) IF A "PHYSICIAN ORDERS FOR LIFE-SUSTAINING TREATMENT" FORM  
18 CONFLICTS WITH AN EMERGENCY MEDICAL SERVICES "DO NOT RESUSCITATE  
19 ORDER", THE EMERGENCY MEDICAL SERVICES "DO NOT RESUSCITATE ORDER"  
20 SHALL BE GIVEN PRIORITY.

21 (E) THE DEPARTMENT SHALL ~~PRINT AND~~ DISTRIBUTE THE "PHYSICIAN  
22 ORDERS FOR LIFE-SUSTAINING TREATMENT" FORM DEVELOPED BY THE OFFICE OF  
23 THE ATTORNEY GENERAL UNDER THIS SECTION.

24 (F) THE DEPARTMENT SHALL ADOPT REGULATIONS IMPLEMENTING THE  
25 PROVISIONS OF THIS SECTION IN CONSULTATION WITH:

26 (1) THE OFFICE OF THE ATTORNEY GENERAL;

27 (2) RELIGIOUS GROUPS AND INSTITUTIONS WITH AN INTEREST IN  
28 END-OF-LIFE CARE; AND

29 (3) ANY OTHER GROUP THE DEPARTMENT IDENTIFIES AS  
30 APPROPRIATE FOR CONSULTATION.

31 5-609.

32 (a) (1) A health care provider is not subject to criminal prosecution or civil  
33 liability or deemed to have engaged in unprofessional conduct as determined by the  
34 appropriate licensing authority as a result of withholding or withdrawing any health  
35 care under authorization obtained in accordance with this subtitle.

1           (2)     A health care provider providing, withholding, or withdrawing  
2 treatment under authorization obtained under this subtitle does not incur liability  
3 arising out of any claim to the extent the claim is based on lack of consent or  
4 authorization for the action.

5           (b)     A person who authorizes the provision, withholding, or withdrawal of  
6 life-sustaining procedures in accordance with a patient's advance directive or as  
7 otherwise provided in this subtitle is not subject to:

8           (1)     Criminal prosecution or civil liability for that action; or

9           (2)     Liability for the cost of treatment solely on the basis of that  
10 authorization.

11          (c)     (1)     The provisions of this section shall apply unless it is shown by a  
12 preponderance of the evidence that the person authorizing or effectuating the  
13 provision, withholding, or withdrawal of life-sustaining procedures in accordance  
14 with this subtitle did not, in good faith, comply with the provisions of this subtitle.

15          (2)     The distribution to patients of written advance directives in a form  
16 provided in this subtitle and assistance to patients in the completion and execution of  
17 such forms does not constitute the unauthorized practice of law.

18          (d)     An advance directive made in accordance with this subtitle shall be  
19 presumed to have been made voluntarily by a competent individual. Authorization for  
20 the provision, withholding or withdrawal of life-sustaining procedures in accordance  
21 with this subtitle shall be presumed to have been made in good faith.

22          SECTION 2. AND BE IT FURTHER ENACTED, That the Office of the  
23 Attorney General, in consultation with the State Advisory Council on Quality Care at  
24 the End of Life, the Maryland Institute for Emergency Medical Services Systems, and  
25 other interested parties, shall:

26          (a)     study methods for reconciling the "Physician Orders for Life-Sustaining  
27 Treatment Form" developed under Section 1 of this Act, and the Emergency Medical  
28 Services "Do Not Resuscitate Order"; and

29          (b)     on or before January 1, 2005, report its findings and recommendations to  
30 the House Health and Government Operations Committee and the Senate Education,  
31 Health, and Environmental Affairs Committee, in accordance with § 2-1246 of the  
32 State Government Article.

33          ~~SECTION 3.~~ SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
34 effect October 1, 2004.

